

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ARTIN NAZARIAN,

Plaintiff,

vs.

ADECCO USA, INC.,

Defendant.

CASE NO. 15cv1274-LAB (JMA)

ORDER DENYING JOINT MOTION TO STAY; AND

ORDER GRANTING MOTION TO COMPEL ARBITRATION; AND

ORDER OF DISMISSAL

The procedural history of this case is unusually complex. It was filed as a putative class action in state court, and removed under the Class Action Fairness Act. Defendant Adecco USA then moved to compel arbitration and to dismiss the action without prejudice as to the putative class members. (Docket no. 8.) Plaintiff Artin Nazarian then filed a related case arising from the same nucleus of operative facts in state court. In this case, he then filed a response conceding that his own claims are arbitrable, and that dismissal of the putative class members' claims without prejudice was proper. (Docket no. 10.) But in his response, he argued that his claims in the other pending action were not subject to arbitration. The parties then filed a joint motion to stay this action pending resolution of the case in state court. (Docket no. 13.)

Adecco then removed the other action to this Court. It was docketed as 15cv2148, *Nazarian v. Adecco*, deemed related to this case, and transferred to the undersigned judge

1 as provided under local rules. In the joint motion to stay, the parties noted Adecco's
 2 argument that case 15cv2148 should be tried together with this case. While the joint motion
 3 raised nebulous concerns about jurisdictional issues in 15cv2148 and suggested that the
 4 issue be briefed, Nazarian did not file a motion for remand.

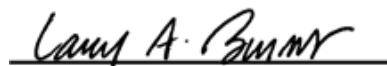
5 It has therefore fallen to the Court in the other case to raise the issue of jurisdiction
 6 and possible remand *sua sponte*. Concurrently with this order, the Court is issuing an order
 7 to show cause re: remand in case 15cv2148.

8 In this case, however, because the parties agree Nazarian's claims are subject to
 9 mandatory arbitration, it is clear he cannot continue to litigate them. Because Nazarian's
 10 claims are arbitrable, the putative class members' claims probably are as well, although the
 11 Court need not and does not decide this issue. In any event, he has not sought further relief
 12 on a classwide basis, and he does not seek to continue his role as class representative — at
 13 least, not as to the claims in this case. No other potential representative has been proposed
 14 to replace Nazarian, and no class has been certified. Dismissal without prejudice would not
 15 bind the unnamed class members, and is therefore appropriate. *Compare Botelho v. Hawaii*,
 16 2015 WL 2088877, at *3 (D. Haw. Feb. 25, 2010) (citing *Sosna v. Iowa*, 419 U.S. 393
 17 (1975)) (holding that if class representative's claim becomes moot before a class is certified,
 18 the case should generally be dismissed).

19 In view of the developments of this and the related case, the joint motion to stay
 20 (Docket no. 13) is **DENIED AS MOOT**. The unopposed motion to compel arbitration and to
 21 dismiss without prejudice the class claims (Docket no. 8) is **GRANTED**. Nazarian is
 22 **ORDERED** to arbitrate his claims on an individual basis only. The classwide and
 23 representative claims are **DISMISSED WITHOUT PREJUDICE**. The action as a whole is
 24 also **DISMISSED WITHOUT PREJUDICE**.

25 **IT IS SO ORDERED.**

26 DATED: March 15, 2016

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28 HONORABLE LARRY ALAN BURNS
 United States District Judge